

PREDETERMINATION SETTLEMENT AGREEMENT

CP# 02-18-71648
HUD# 07-18-8532-8

PARTIES TO THE SETTLEMENT AGREEMENT:

RESPONDENTS

THE PADDOCK, L.L.C.

2871 Heinz Road, Suite B
Iowa City, Iowa 52240-8198

SEYDEL CONSTRUCTION, INC.

2871 Heinz Road, Suite C
Iowa City, Iowa 52240-8198

**VAN WINKLE-JACOB ENGINEERING, INC.
(DBA VJ ENGINEERING)**

2570 Holiday Drive, Suite 10
Coralville, Iowa 52241-3033

COMPLAINANT

ANGELA JACKSON, COMMISSIONER

Iowa Civil Rights Commission
400 East 14th Street, Room 201
Des Moines, Iowa 50319-0201

and

IOWA CIVIL RIGHTS COMMISSION

400 East 14th Street, Room 201
Des Moines, Iowa 50319-0201

Complainant's Allegations:

Complainant is a member of the Iowa Civil Rights Commission (ICRC). As a member, Complainant has the authority to file a complaint alleging a discriminatory practice in violation of the "Iowa Civil Rights Act of 1965," Iowa Code Chapter 216. Complainant alleged Respondents designed and constructed covered multifamily dwellings in violation of the design and construction accessibility requirements of the Iowa Civil Rights Act (ICRA) and the federal Fair Housing Act (FHA). Complainant alleged Respondents violated the "accessible and usable public and common use areas," the "accessible route into and through the covered

unit,” and the “usable kitchens and bathrooms.”¹ Complainant specifically alleged at 3195 Shire Lane, The Overlook Apartments (“Overlook”), one feature in the common areas and two features within one of the covered units appeared inaccessible to a person utilizing a wheelchair for mobility – (1) the height of the midlines of the keyholes of the mail compartments for four of the ground-floor units at one of the kiosks for Building 3195 were measured at 58” (Units 1 and 9) and 55 ¼” (Units 2 and 10), which are both higher than the 54”-maximum allowed for a parallel approach by persons using a wheelchair; (2) the height of the interior threshold at the doorway to the balcony in Building 3195 Unit 3 was measured at 1 ½”, which exceeds the ¼”-maximum allowed for interior thresholds at sliding glass doorway without 1:2 beveling, which was observed to be lacking; and (3) the distance between the refrigerator and opposing countertop was measured at 36 ½” in Building 3195 Unit 3, which is less than the required minimum clearance of 40”.

Description of the Subject Property

Subject Property

Overlook consists of four buildings – Buildings 3135, 3155, 3175, and 3195. There were no elevators available in any of the buildings. Therefore, only the ground-floor units at Overlook will be required to meet the accessibility requirements of the ICRA and FHA.

The buildings at Overlook were issued Certificates of Occupancy signed by Doug Boothroy, Building Official for the City of Iowa City. The issue dates for each of the Certificates are listed in the table below:

BUILDING	CERTIFICATE OF OCCUPANCY DATE
3135	July 22, 2016
3155	August 25, 2016
3175	May 3, 2017
3195	July 25, 2017

The scope of the current agreement includes all of the ground-floor dwelling units in Buildings 3175 and 3195 and the common use areas, including the parking lot spaces, garages, dumpsters, and the mailbox kiosks adjacent to each of these two buildings.

The dwelling units at Overlook have been grouped by Respondents based on their floor-plan configurations.² Respondents’ organization of the floor-plan types has resulted in three groups of units.

The table at the top of the next page lists units that are grouped together. It also provides the total number of units by group.

¹ See Iowa Code §§216.8A(3)(c)(3)(a) [Requirement 2 – Accessible and Usable Public and Common Use Areas]; 216.8A(3)(c)(3)(c)(i) [Requirement 4 – Accessible Route into and Through the Covered Unit]; and 216.8A(3)(c)(3)(c)(iv) [Requirement 7 – Usable Kitchens and Bathrooms].

² See Appendix B for floor plans.

Unit Type Groups	Unit Numbers in Groups	Inspected Unit Numbers	Total Ground-Floor Units Per Group
1	Building 3175: 1, 2, 7, and 8 Building 3195: 1, 2, 9, and 10	Building 3175 Unit 7	8
2	Building 3195: 3 and 4	Building 3195 Unit 3	2
3	Building 3175: 3, 4, 5, and 6 Building 3195: 5, 6, 7, and 8	Building 3195 Unit 6	8
		TOTAL	18

Respondents' Defenses

When asked in the questionnaire what was true or false about the allegations, Respondent The Paddock, L.L.C. ("Paddock") answered:

I believe all of the measurements made in the complaint are accurate.

Respondent Seydel Construction, Inc. ("Seydel"). answered:

The building was constructed per the documents and the governing body having jurisdiction approved the construction for occupation.

Respondent Van Winkle-Jacob Engineering, Inc. ("VWJE"). answered:

The building plans were drawn in compliance with the governing code.

Jurisdiction

As previously quoted in the current agreement, Respondent Seydel stated Overlook's construction was approved by the "governing body having jurisdiction;" and Respondent VWJE stated they drew the plans for Overlook according to the "governing code."

Respondents submitted plans for Overlook, which include a set of instructions titled "Handicap Accessibility." The first sentence in these instructions reads:

The ground floor dwelling units must meet accessibility requirements of the Iowa State Building Code, Division VII.³

An online search for the Iowa Code referenced in these instructions indicates this code is found in Chapter 302 of the Iowa Administrative Code ("IAC").⁴ Chapter 302 from the IAC includes guidance on applying the accessibility requirements of the FHA and ICRA in relation to the requirements from the Iowa State Building Code. The relevant excerpts read:

661—302.1(103A,104A) Purpose and scope.

³ See Appendix B.

⁴ <https://www.legis.iowa.gov/docs/iac/chapter/661.302.pdf> (Last visited on November 26, 2018).

* * * * *

NOTE A: Although rule 661—302.2(103A,104A) is based upon the federal 2010 ADA Standards for Accessible Design and adopts the language of the 2010 ADA Standards for Accessible Design by reference, and rule 661—302.20(103A,104A) is based upon the requirements of the federal Fair Housing Act, state and local building officials charged with enforcement of these rules are unable to warrant the acceptance of any approval of design or construction by federal agencies or any other state. **A state or local official’s decision to approve a building plan under these rules does not prevent the federal government or another state [agency] from making a different decision under applicable law, notwithstanding any similarities among such laws [bold added for emphasis].**

NOTE B: Other federal and state laws address requirements for accessibility for persons with disabilities and may be applicable to buildings and facilities subject to rules 661—302.1(103A,104A) through 661—302.20(103A,104A). **Nothing in these rules should be interpreted as limiting the applicability of other provisions of state or federal law [bold added for emphasis].** These provisions include, but are not limited to, the following:

1. Iowa Code chapter 216, the Iowa civil rights Act of 1965.

* * * * *

6. The federal Fair Housing Act of 1968 (Public Law 90-284), the federal Fair Housing Amendments Act of 1988 (Public Law 100-430), and related regulations, including 24 CFR 100, Subpart D.

Based on the cited sections from Chapter 302 of the IAC, approval from a governing body having jurisdiction and/or compliance with Chapter 302 of the IAC *does not* mean compliance has been achieved with the legal accessibility requirements of the FHA and ICRA, which must also be followed, and Respondents’ reliance on such would not establish a valid defense to the deficiencies cited pursuant to the FHA and the ICRA.

Report of Preliminary Findings:

ICRC Investigators inspected three covered units at Overlook, as well as the public and common use areas in and surrounding the complex. After conducting an onsite inspection of the units listed in the “Subject Property” section on page 2 of the current agreement, and the public/common use areas, ICRC Investigators found and reported the following deficiencies:

- 1) The mailboxes for the units at Buildings 3175 and 3195 are housed in kiosks adjacent to the main entrance of each one of these buildings. Neither one of these buildings has an elevator. Therefore, only the mailboxes for the ground-floor units must meet reachability requirements. In Building 3175, the ground-floor units consist of Units 1 through 8, and in Building 3195, Units 1 through 10 are the ground-floor units.

There is sufficient clearance in front of all mailbox kiosks to allow for a parallel approach by persons using a mobility-assistive device such as a wheelchair. All mailbox kiosks were observed to have been installed at the same height. The height to the midline of the keyholes at the top two rows of mailboxes in the kiosk for Building 3195 measured 54 ¼” (Units 2 and 10) and 57 ¾” (Units 1 and 9). The ground-floor

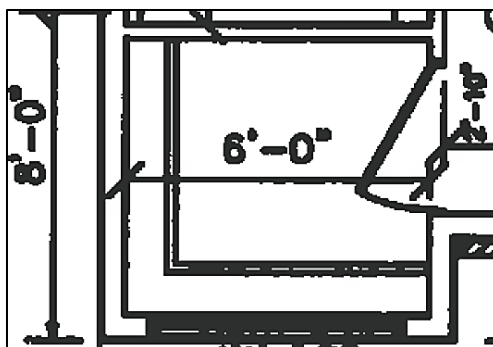
units with mailbox compartments in the top two rows of the kiosk for Building 3175 are Units 1 and 2. The height of each of these mailbox compartments exceeds the 54”-maximum allowed by ANSI 1986 for a parallel approach by a person using a mobility assistive device such as a wheelchair.⁵

The instructions in the plans state, “Mailboxes must be mounted at an accessible height.” However, no specific instructions about the installation heights of mailboxes were found in the plans submitted by Respondents.

2) The ICRC Investigators took measurements of the clear opening width at the secondary doorways within all inspected units. The clear opening width of the doorway at the walk-in closet in Building 3175 Unit 7 measured 27 5/8”.⁶

The plans submitted by Respondents include scaled drawings of the dwelling units. The relevant portion of the plan for Unit 7 is shown below:⁷

BUILDING 3175 UNIT 7 – WALK-IN CLOSET



Based on the scaled drawing above, clear opening width of the doorway to the walk-in closet in Building 3175 Unit 7 was designed to be about 32” because the door itself was designed to be 34” wide, and the clear opening widths are typically 2” less than the width of the door.⁸ As designed, the doorway would have been compliant with the 31 5/8”-minimum requirement. However, as built, the clear opening width of the secondary doorway to the walk-in closet in Building 3175 Unit 7 is less than the 31 5/8”-minimum requirement. This doorway is too narrow, rendering it unusable by persons using wheelchairs.⁹

3) After receiving notification of the complaint on February 23, 2018, and before the inspection on April 27, 2018, Respondents stated they either installed accessible ramps or shims under the carpet at the interior thresholds of the doorway to the porch at all ground floor units to correct this deficiency. ICRC Investigators verified ramps were installed at Building 3195 Units 3 and 6, and shims were installed under the carpet at Building 3175 Unit 7. These retrofits were observed by ICRC Investigators to have corrected this deficiency.

⁵ See Appendix A, Photo 1A.

⁶ See Appendix A, Photos 2A.

⁷ See Appendix B.

⁸ <https://homeguides.sfgate.com/typical-door-heights-openings-interior-framing-76126.html> (Last visited on November 26, 2018).

⁹ See Appendix A, Photo 2A.

4) The height of the top control buttons of the thermostat in Building 3175 Unit 7 was measured at 48 1/2", which exceeds the 48"-maximum height.¹⁰

The plans submitted by Respondents include the accessibility instructions previously mentioned. The relevant excerpt reads:

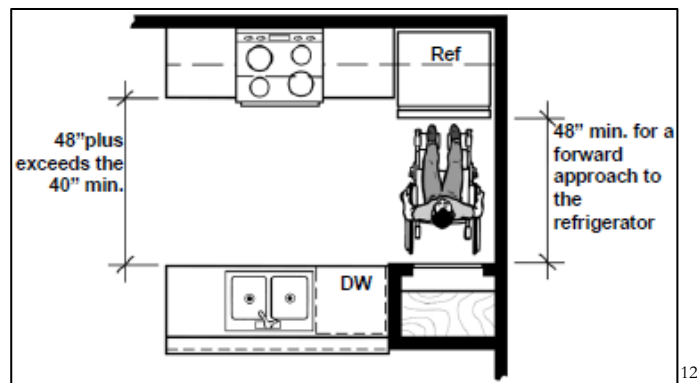
Outlets, light switches, and environmental controls must meet mounting height restrictions.

As referenced earlier in the current report, the Iowa State Building Code, Division VII, is found in Chapter 302 of the IAC. The relevant excerpt from Chapter 302 reads:

Light switches, electrical outlets, thermostats and other environmental controls shall be located no higher than 48", and no lower than 15", above the floor.¹¹

The heights of the thermostat in Building 3175 Unit 7 would have been compliant with the 48"-maximum height requirement as referenced above if installed according to the instruction in the plans. But, as built, it is too high, rendering it unusable by persons using wheelchairs.

5) The following illustration indicates the clear floor space requirements as applicable to refrigerators located adjacent to a side wall in galley-style kitchens:



When a refrigerator is located against a sidewall in a galley kitchen, as shown in the diagram above, a centered-parallel approach by someone in a wheelchair is not possible because the sidewall is less than 24" from the midline of the refrigerator. A centered-forward approach is the only other possible approach, which requires the clearance between the front face of the refrigerator and the opposing countertop to be 48". In order to achieve this clearance, all of the features (i.e., countertops, appliances, etc.) on either side of the galley kitchen must also be 48" away from each other. In Building 3175 Unit 7 and in Building 3195 Unit 3, the midline of the refrigerator is estimated to be about 15" from the adjacent wall based on the 30" side of the 30"-by-48" drop cloth that was placed on the floor flush with the front face of the refrigerator door and the adjacent baseboard. The midline of the refrigerator in both of these units is less than the 24"-

¹⁰ See Appendix A, Photo 3A.

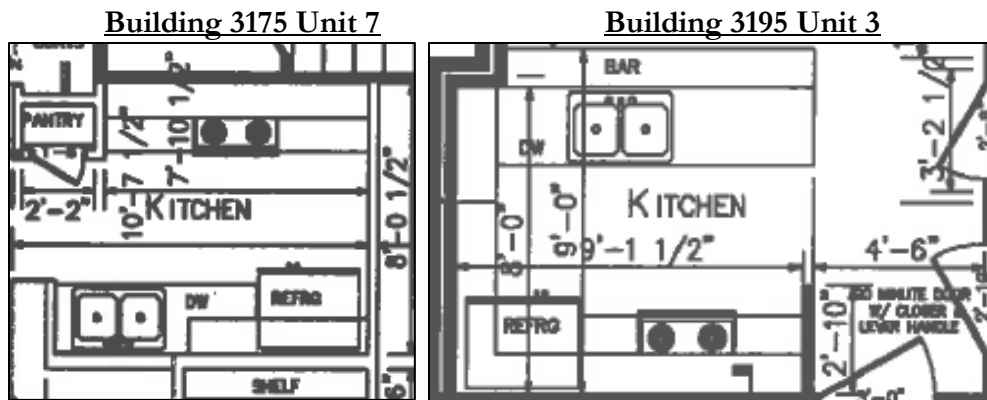
¹¹ Iowa Code §302.20(1)(f)

¹² *Strategies for Compliant Kitchens – Participant Manual*, at page 65, The BearingPoint Team for U.S. Dept. of Housing and Urban Development C-OPC-22667 October 2005.

minimum required for the parallel approach, which leaves a forward approach as the only other option for a person using a wheelchair.

The width of the path between the refrigerator – which is in the same configuration as shown and described above – and the opposing counter, excluding the door handles, was measured at 38 1/2” in Building 3175 Unit 7 and 37 7/8” in Building 3195 Unit 3, which are both less than the 48”-minimum required for this refrigerator configuration.¹³

Respondents submitted plans for all units. The plans for the kitchens in Building 3175 Unit 7 and in Building 3195 Unit 3 are shown below.¹⁴



The width of the path in the kitchen of Building 3175 Unit 7 and Building 3195 Unit 3 was designed to be about 42”. The midlines of the refrigerators were designed to be about 15” away from the wall in both units. As designed and built, the path in these kitchens is less than the 48”-minimum, which is required because the only approach possible at the refrigerator is a forward approach given the location of the refrigerator at the closed end of the kitchen. These violations render these kitchens unusable by persons using wheelchairs.

6) The height of the bathroom towel bar in Building 3195 Unit 6 measured 60”.¹⁵ The height of the towel bar renders it unusable by persons using wheelchairs because it exceeds the 54”-maximum height allowed by ANSI 1986 for a parallel approach by a person using a mobility assistive device such as a wheelchair.

The plans submitted by Respondents did not include diagrams or instructions for the installation of the towel bars.

Respondents’ Response to Report of Preliminary Findings:

Respondents submitted the following responses to the reported deficiencies:

¹³ See Appendix A, Photos 3A, 3B, and 3C.

¹⁴ See Appendix B.

¹⁵ See Appendix A, Photo 4A

- 1) Respondents will replace the pedestals of the mailbox kiosks with shorter pedestals so that all mailboxes are no higher than the allowed 54” and no lower than the allowed 9” within 30 days from the date of the Closing Letter from ICRC.
- 2) Respondents will either remove the door to the walk-in closets in the 1BR units or replace the current doorway with a doorway to increase the clear opening width for this doorway to no less than 32”. Respondents will complete this retrofit at the units that are currently vacant within 30 days from the date of the Closing Letter from ICRC. At the units that are currently occupied, Respondents will notify the current tenants to inquire which of the two retrofits they prefer. If tenants do not want either option done at that time, Respondents will complete one of the two retrofits described above within 30 days of that tenant vacating the unit.
- 3) As reported in the last section, on April 27, 2018, Respondents stated during the inspection that accessible ramps or shims under the carpet were installed at the interior thresholds of the doorway to the porch at all ground floor units to correct the non-compliant threshold height deficiency
- 4) Respondents will relocate the thermostats in all covered ground-floor units, so that all of the controls are at a height not exceeding the 48”-maximum height within 30 days from the date of the Closing Letter from ICRC.
- 5) In Building 3175 Unit 7 and in Building 3195 Unit 3, and at the other similarly designed units – where the clear floor space at the refrigerator is less than the 30” x 48” required – Respondents will move the refrigerator to an adjacent wall where there will be a 30” x 48” clear floor space to access the refrigerator if requested by a tenant. Within 30 days from the date of the Closing Letter from ICRC, Respondents will notify the current tenants that – at no charge to them and upon their request – Respondents will move the refrigerator to the adjacent wall to meet the 30” by 48” clear floor space requirement. For future tenants in the affected units, Respondents will advise them – whenever showing an available unit – about the option to have the refrigerator moved, and provide them with a lease addendum that at any time, upon their request, Respondents will move the refrigerator to the adjacent wall.
- 6) Within, 30 days from the date of the Closing Letter from ICRC, Respondents will either move the existing towel bars or install additional towel bars at a height of less than 54”-maximum allowed by ANSI 1986 – which is the maximum height allowed if there is sufficient clearance for a parallel approach by someone in a wheelchair – in the bathroom Building 3195 Unit 6 and in all other ground-floor units verified by Respondents to have towel bars exceeding the 54”-maximum height.

Assessment of Deficiencies:

Respondents stated all units were designed and built in accordance with the scoping requirements of the 2015 International Building Code [IBC 2015], which incorporates the standards of the 2009 American National Standards [ANSI 2009] for guidance on the technical requirements [i.e., the dimension requirements]. Neither the IBC 2015 nor the ANSI 2009 is one of the safe harbors accepted by HUD.¹⁶ Therefore, the Manual and the Guidelines, which incorporate ANSI 1986 for some of the technical requirements, must be used to assess and determine compliance with the ICRA and FHA, not IBC 2015 or ANSI 2009.

¹⁶ <http://www.fairhousingfirst.org/faq/safeharbors.html> (Last visited on July 19, 2018).

The common use areas – dumpsters and the mailbox kiosks located adjacent to Buildings 3175 and 3195 – are governed by the FHA since they are only for use by the residents of Overlook and their guests. The ADA will not be referenced in the current report, because there is no leasing office or other public areas that are part of the scope of the current report.

Following is the assessment of Respondents' proposed retrofits and determination, based on the scoping and technical requirements of the 2010 ADAAG and the Manual:

- 1) ICRC agrees with Respondents' proposal to replace the pedestals of the mailbox kiosk with shorter pedestals so that all mailboxes are no higher than the allowed 54" and no lower than the allowed 9" within 30 days from the date of the Closing Letter from ICRC.
- 2) ICRC agrees with Respondents' proposal to (i) either remove the door to the walk-in closets in the 1BR units or replace the current doorway with a doorway to increase the clear opening width for this doorway to no less than 32"; (ii) complete this retrofit at the units that are currently vacant within 30 days from the date of the Closing Letter from ICRC; and (iii) to notify the current tenants at the units currently occupied to inquire which of the two retrofits they prefer. If tenants do not want either option done at that time, Respondents will complete one of the two retrofits described above within 30 days of the date that tenant vacates the unit and before that unit is rented to the next tenant.
- 3) ICRC agrees with Respondents' determination that they have corrected the deficiency about the threshold height at the doorway to the porch of all units because they installed either accessible ramps or shims under the carpet at the doorways of all covered ground-floor units. Respondents' claim was verified by ICRC Investigators during the onsite inspection when they observed the threshold deficiency had been corrected in the manner described by Respondents. Based on the gathered information, no additional actions are required by ICRC to bring these thresholds into compliance with the accessibility requirements of the ICRA and the FHA.
- 4) ICRC agrees with Respondents' proposal to relocate the thermostats in all covered ground-floor units, so that all of the controls are at a height not exceeding the 48"-maximum height within 30 days from the date of the Closing Letter from ICRC.
- 5) ICRC agrees with Respondents' proposal to move the refrigerator to an adjacent wall so that there will be a clear floor space that measures no less than 30" x 48" and is centered at the refrigerator in Building 3175 Unit 7 and in Building 3195 Unit 3, and at the other similarly-designed units. However, ICRC disagrees with the portion of Respondents' proposal that requires tenants to request this retrofit before this deficiency is corrected. Instead, ICRC will allow Respondents to give tenants the option of rejecting this retrofit. At units where current tenants reject the retrofit, ICRC will require that this retrofit be completed within seven days from the date those units are vacated by the current tenants. Otherwise, ICRC will require that future tenants are not given the option to reject this retrofit.
- 6) ICRC agrees with Respondents' proposal to – within, 30 days from the date of the Closing Letter from ICRC – either relocate the existing towel bars or install additional towel bars at a height of less than 54"-maximum allowed by ANSI 1986 – which is the maximum height allowed if there is sufficient clearance for a parallel approach by someone in a wheelchair – in the bathroom Building 3195 Unit 6 and in all other covered ground-floor units verified by Respondents to have towel bars exceeding the 54"-maximum height..

Predetermination Settlement Agreement

A complaint having been filed by Complainant against Respondents with ICRC under Iowa Code Chapter 216 and there having been a preliminary inquiry, including an on-site inspection of the subject property, the parties do hereby agree and settle the above-captioned matter in the following extent and manner:

Acknowledgment of Fair Housing Laws

- 1) Respondents agree there shall be no discrimination, harassment, or retaliation of any kind against Complainant or any other person for filing a charge under the “Iowa Civil Rights Act of 1965” (ICRA); or because of giving testimony or assistance, or participating in any manner in any investigation, proceeding or hearing under the ICRA; or because of lawful opposition to any practice forbidden by the ICRA. Iowa Code § 216.11(2).
- 2) Respondents acknowledge the ICRA makes it unlawful to discriminate in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of race, color, creed, sex, sexual orientation, gender identity, national origin, religion, disability, or familial status. Iowa Code § 216.8(1)(b).
- 3) Respondents acknowledge the ICRA makes it unlawful to sell, rent, lease, assign, sublease, refuse to negotiate, or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion, or interest therein, to any person because of the race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status of such person. Iowa Code § 216.8(1)(a).
- 4) Respondents acknowledge the Fair Housing Act (FHA) makes it unlawful to sell, rent, lease, assign, sublease, refuse to negotiate, or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion, or interest therein, to any person because of the of race, color, religion, sex, familial status, or national origin. 42 U.S.C. 3604(f)(1)(a) (§ 804(f)(1) of the Fair Housing Act).
- 5) Respondents acknowledge the FHA and ICRA make it unlawful to refuse to make reasonable accommodations in rules, policies, practices, or services, when the accommodations are necessary to afford the person equal opportunity to use and enjoy a dwelling and to the extent that the accommodation does not cause undue financial or administrative burden or fundamentally alter the nature of the provider’s operations. 42 U.S.C. 3604(f)(3)(b) (§ 804(f)(3)(b) of the Fair Housing Act); Iowa Code § 216.8A(3)(c)(2).
- 6) Respondents acknowledge the FHA and ICRA make it unlawful to discriminate against another person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability. 42 U.S.C. 3604(f)(2)(a) (§ 804(f)(2)(a) of the Fair Housing Act); Iowa Code § 216.8A(3)(b)(1).
- 7) Respondents acknowledge as owners, developers, builders, or managers of covered multifamily dwellings – ground-floor units in buildings with no elevator or all units in buildings with an elevator, and consisting of four or more dwelling units built for first occupancy after January 1, 1992 – must build those dwellings in compliance with specific design and construction accessibility requirements, in accordance with the FHA and ICRA. Iowa Code §216. 8A(3)(c)(3); 42 U.S.C. §3604(f)(3)(C).

HUD has described these accessibility requirements via regulation and in several publications, including the “Final Fair Housing Accessibility Guidelines.” 24 C.F.R. Part 100.200 et seq.; 56 Fed. Reg. 9,472. In the “Guidelines,” HUD presented the seven specific requirements as:

Requirement 1 – Accessible building entrance on an accessible route.

Requirement 2 – Accessible and usable public and common areas.

Requirement 3 – Usable doors.

Requirement 4 – Accessible route into and through the covered dwelling unit.

Requirement 5 – Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.

Requirement 6 – Reinforced walls for grab bars.

Requirement 7 – Usable kitchens and bathrooms.

Voluntary and Full Settlement

8) The parties acknowledge this Predetermination Settlement Agreement is a voluntary and full settlement of the disputed complaint. The parties affirm they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened or in any way forced to become a party to this Agreement.

9) The parties enter into this Agreement in a good faith effort to amicably resolve existing disputes. The execution of this Agreement is not an admission of any wrongdoing or violation of law. Nor is the execution of this Agreement an admission by Complainant that any claims asserted in her complaint are not fully meritorious.

10) The parties agree the execution of this Agreement may be accomplished by separate counterpart executions of this Agreement. The parties agree the original executed signature pages will be attached to the body of this Agreement to constitute one document.

11) Respondents agree the ICRC may review compliance with this Agreement. And as part of such review, Respondents agree the ICRC may examine witnesses, collect documents, or require written reports, all of which will be conducted in a reasonable manner by the ICRC.

Disclosure

12) Because, pursuant to Iowa Code §216.15A(2)(d), the ICRC has not determined that disclosure is not necessary to further the purposes of the ICRA relating to unfair or discriminatory practices in housing or real estate, this Agreement is a public record and subject to public disclosure in accordance with Iowa’s Public Records Law, Iowa Code Chapter 22. See Iowa Code §22.13.

Release

13) Complainant hereby waives, releases, and covenants not to sue Respondents with respect to any matters which were, or might have been alleged as charges filed with ICRC, the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, or any other anti-discrimination agency, subject to performance by Respondents of the promises and representations contained herein. Complainant agrees any complaint filed with any other anti-discrimination agency, including the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, which involves the issues in this complaint, shall be closed as Satisfactorily Adjusted.

Fair Housing / Accessible Design and Construction Training

14) Respondents agree that:

(a) Steve Gordon, Lyle Seydel, and a representative from Respondent Van Winkle-Jacob Engineering, Inc. to be selected by Steve Lee, will receive training on the accessible design and construction requirements of State and Federal Fair Housing Laws. The training will address the Fair Housing accessibility requirements that must be met in order to design and build covered dwellings and common use/public areas that are accessible and usable to individuals with mobility and visual impairments.

The training shall be conducted by a qualified person, approved by ICRC or the U.S. Department of Housing and Urban Development. Additionally, this term may be fulfilled by attending the “Build It Right Iowa Conference” on April 5, 2019 (<https://icrc.iowa.gov/news/6th-iowa-civil-rights-symposium-and-3rd-build-it-right-iowa-conference>), scheduling a training session with ICRC via email at BuilItRightIowa@iowa.gov, or by attending one of the training events offered by Fair Housing Accessibility First – information about which is available online at <http://www.fairhousingfirst.org/training/calendar.html>.

(b) Steve Lee will select an employee from Van Winkle-Jacob Engineering, Inc. as a representative to attend the training, who either currently contributes or may contribute in the future to the design and/or construction of covered multifamily-dwelling properties.

(c) Respondents will send documentation to ICRC, verifying the fair housing / accessible design and construction training has been completed, within ten days of completing the training.

15) Respondents agree all persons identified in paragraph 14) of the current section, and all Respondents’ current employees or agents who are involved in the design and/or construction of covered multifamily-dwelling properties will:

(a) Review and become familiar with the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991) and the United States Department of Housing and Urban Development, Fair Housing Act Design Manual, A Manual to Assist Builders in Meeting the Accessibility Requirements of the Fair Housing Act, (August 1996, Rev. April 1998), which may be obtained online at <http://www.huduser.gov/portal/publications/PDF/FAIRHOUSING/fairfull.pdf>.

(b) Submit separate signed written statements via email from each of the Respondents’ representatives named above in paragraph (a), and their current employees or agents who are involved in the design and/or construction of covered multifamily-dwelling properties indicating:

- i. They have reviewed and become familiar with the Fair Housing Act Design Manual.
- ii. They understand what the Seven Main “Design Requirements of the Guidelines” are by listing them in the written statement.

(c) Complete the requirements in (a) and (b) paragraphs of the current section within 120 days of the date of the Closing Letter from the ICRC.

Required Retrofits

16) Respondents agree to make the following retrofits to the subject property:

Accessible and Usable Public and Common Use Areas – Mailboxes

- (a) The parties agree that the mailbox keyholes at the mailbox compartments in the top two rows of the mailbox kiosks for Buildings 3175 and 3195 exceed the 54”-maximum height allowed by ANSI 1986.
- (b) Respondents agree they will replace the pedestals of all mailbox kiosks at the subject property with shorter pedestals such that all mailbox compartments will have keyholes with midlines that do not exceed the maximum the 54”-maximum height and are no lower than the 9”-minimum height – that is allowed because there is sufficient clearance for tenants who use a wheelchair to make a parallel approach – as required by ANSI 1986.
- (c) Respondents agree to complete the retrofit described in the current section within 30 days from the date of the Closing Letter from ICRC.

Usable Doors – Clear Opening Width for Secondary Entrances

- (a) The parties agree the interior doorway providing access to the walk-in closet in Building 3175 Unit 7 has a clear opening width that is narrower than the 31 ⁵/₈”-minimum required by the Manual.
- (b) Respondents agree to either remove or replace the door panel and door stop at the walk-in closet in Building 3175 Unit 7 to increase the door-opening width to $\geq 31 \frac{5}{8}$ ”.
- (c) Respondents agree to measure the doorways of the walk-in closets at the other units that were not inspected by ICRC Investigators and are in the same floor-plan group as Unit 7 in Building 3175, as defined in the table on page 3 of the current agreement. If the clear-opening width of the doorway to the walk-in closet at any of the units is $< 31 \frac{5}{8}$ ”, then Respondents agree complete the same retrofit as described in paragraph (b) above to bring them into compliance with the ICRA and FHA.
- (d) Respondents agree to complete one of the retrofits described in paragraph (b) at all unoccupied covered ground floor units with narrow doorways to the walk-in closet as describe in paragraph (a) above within 30 days from the date of the Closing Letter from ICRC.
- (e) If Respondents allow a current tenant to reject the retrofits described in paragraph (b) above, Respondents agree to complete either one of the two retrofits described in paragraph (b) within 30 days from the date the tenant vacates that unit and before that unit is rented to the next tenant.
- (f) Respondents agree to complete either one of the two retrofits described in paragraph (b) above if necessary to accommodate the onset of mobility-impairment health condition for those tenants.

Light Switches, Electrical Outlets, Thermostats, and Other Environmental Controls in Accessible Locations – Thermostats

- (a) The parties agree the height of the top thermostat controls in all inspected units exceed the maximum height of 48”, as allowed by the Manual.

(b) Respondents agree they will vertically relocate the thermostats in all units to a lower height, such that the display screen and all operating buttons do not exceed maximum height of 48”, as required by the Manual.

(c) Respondents agree they will complete the retrofit described in the current subsection at all covered ground-floor units within 30 days from the date of the Closing Letter from ICRC or sooner if requested by a tenant with a disability.

Usable Kitchens – Clear Floor Space Centered at Refrigerator

(a) The parties agree the width of the path between the refrigerator and the opposing fixtures is too narrow in Building 3175 Unit 7 and Building 3195 Unit 3 because it is less than the 48”-minimum required for a forward-approach, which is the only approach to the refrigerator that is available.

(b) Respondents agree to move the refrigerator to an adjacent wall near the kitchen at Unit 7 in Building 3175 and at Unit 3 in Building 3195 so that there will be clear floor space measuring no less than 30” x 48” centered on the refrigerator for either a parallel or forward approach.

(c) Respondents agree to measure clear width of the galley kitchen between the front face of the refrigerator and the opposing countertop at the other units that were not inspected by ICRC Investigators – which includes units that (i) are in the same floor-plan groups as Unit 7 in Building 3175 and Unit 3 in Building 3195, as defined in the table on page 3 of the current agreement; and (ii) with refrigerators in the same locations as in these two units. If the clear width – as measured between the front face of the refrigerator and the opposing countertop – at any of these units is < 48”, then Respondents agree to complete the same retrofit as described in paragraph (b) above to bring them into compliance with the ICRA and FHA.

(d) Respondents agree to complete one of the retrofits described in paragraph (b) at all unoccupied covered ground floor units with narrow galley kitchens as described in paragraph (a) above within seven days from the date of the Closing Letter from ICRC.

(e) If Respondents allow a current tenant to reject the retrofit described in paragraph (b) above, Respondents agree to complete this retrofit within seven days from the date the tenant vacates that unit and before that unit is rented to the next tenant.

(f) Respondents agree to complete one of the retrofits described in paragraph (b) above if necessary to accommodate the onset of mobility-impairment health condition for those tenants who notify Respondents of the need prior to completion of the retrofits.

Usable Bathrooms – Towel Bars

(a) The parties agree bathroom towel bar in Building 3195 Unit 6 is unusable for persons using wheelchairs because it is installed at a height of 60”, which exceeds the 54”-maximum height that is allowed by ANSI 1986 if there is sufficient clearance for persons who use a wheelchair to make a parallel approach.

(b) Respondents agree they will either relocate the existing towel bar or install an additional towel bar at a height of no greater than the 54”-maximum allowed by ANSI 1986 in the bathroom of Unit 6 in Building 3195.

(c) Respondents agree they will measure height of the towel bars in the bathrooms of all covered ground-floor units, and complete the retrofit required in (b) paragraph above at all units with towel bars exceeding the 54"-maximum height allowed in ANSI 1986.

(d) Respondents agree they will complete the retrofit described in the current subsection at all non-compliant units within 30 days from the date of the Closing Letter from ICRC.

Mandatory Reports

17) Respondents agree to notify ICRC when they have completed the required retrofits for each of the units and the public and common use areas. Such notification shall be made within 90 days of completion. These required notifications to ICRC after each unit or common area is modified or retrofitted will continue until all required retrofits have been completed in all applicable units.

18) Respondents agree, as the required retrofits are made to a particular unit ICRC may then inspect such unit, and then report the results of its inspection, addressing any outstanding deficiencies, in writing and within 30 days of the inspection to Respondents. If the inspection indicates outstanding deficiencies, Respondents shall correct all such deficiencies within a reasonable period of time as determined by ICRC.

19) Respondents agree to send all reports and written statements required in this agreement to ICRC (Attn: Emigdio Lopez-Sanders; Iowa Civil Rights Commission, 400 East 14th Street, Des Moines, Iowa 50319-0201, OR via email at emigdio.lopez-sanders@iowa.gov).

20) The sale or transfer of ownership, in whole or in part, by any owner of the subject property will not affect any obligation to modify or retrofit the properties as specified in this agreement, unless Respondents have obtained, in writing, as a condition of sale or transfer, the purchaser or transferee's commitment to be bound by the terms of this agreement to complete all required retrofits as specified in this agreement.

The Paddock, L.L.C.
RESPONDENT

Date

Seydel Construction, Inc.
RESPONDENT

Date

Van Winkle-Jacob Engineering, Inc. (DBA VJ Engineering)
RESPONDENT

Date

Angela Jackson, Commissioner
COMPLAINANT

Date

Kristin H. Johnson, Executive Director
IOWA CIVIL RIGHTS COMMISSION

Date